# REGULATION No. VII OF 1892.

(PASSED ON THE 15TH DAY OF DECEMBER 1892.)

***A Regulation to amend the Code of Civil Procedure.***

Whereas it is expedient to amend the Code of Civil Procedure; His Highness the Maharaja is pleased to enact as follows:—

Short title. **1.** (1) This Regulation may be called the Civil Procedure Code Amendment Regulation, 1892, and

Commencement. (2) It shall come into force on the 1st day of April 1893.

Construction. **2.** (1) In this Regulation, unless there is something repugnant in the subject or context, "section" means a section, "schedule" a schedule, and "chapter" a chapter, of the Code of Civil Procedure.

(2) Any reference in any enactment heretofore passed or hereafter to be passed to the Code of Civil Procedure shall, so far as may be, be read as if made to it as amended by this Regulation.

Addition of new section after section 3. **3.** The following shall be inserted after section 3, namely:—

"Power to modify the Code in its application to Revenue Courts." "3A. (1) Where any Revenue Courts are governed by the provisions of the Code of Civil Procedure in those matters of procedure upon which any special enactment applicable to them is silent, the Government of Mysore may, by notification in the official Gazette, declare that any portions of those provisions shall not apply to those Courts, or shall only apply to them with such modifications as the Government may prescribe.

"(2) 'Revenue Court' in sub-section (1) means a Court having jurisdiction under any local law to entertain suits relating to the rent, revenue, or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits as being suits of a Civil nature of which its cognizance is not barred by any enactment for the time being in force."

Addition to section 14. **4.** To section 14 the following shall be added, namely:—

"Where a suit is instituted in the territories of Mysore on the judgment of any foreign Court in Asia or Africa except a Court of Record established by Letters Patent of Her Majesty or any predecessor of Her Majesty or a Supreme Consular Court established by an Order of Her Majesty in Council, the Court in which the suit is instituted shall not be precluded from enquiry into the merits of the case in which the judgment was passed."

*Sections* 5-8.

Addition of new section after section 16.

**5.** The following shall be inserted after section 16, namely:—

"Place for institution of suit where local limits of jurisdiction of Courts are uncertain.

"16A. (1) When it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more Courts any immoveable property is situate, any one of those Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction:

"Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.

"(2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court that a decree of order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection if in its opinion there was, at the time of the institution of the suit, any reasonable ground for uncertainty as to the Court having jurisdiction with respect thereto."

Addition to section 17.

**6.** In section 17, after Explanation II, the following shall be inserted, namely:—

"Explanation III.—In suits arising out of contract, the cause of action arises within the meaning of this section at any of the following places, namely:—

(i) the place where the contract was made;

(ii) the place where the contract was to be performed or performance thereof completed;

(iii) the place where in performance of the contract any money to which the suit relates was expressly or impliedly payable."

Amendment of section 27.

**7.** In section 27 there shall be inserted after the words "the Court may" the words "at any stage of the suit," and after the words "any other person or persons" the words "with his or their consent."

Substitution of new section for section 53.

"When plaint may be rejected, returned for amendment or amended."

**8.** For section 53 the following shall be substituted, namely:—

"53. The plaint may, at the discretion of the Court,—

(*a*) at, or at any time before, the settlement of issues, be rejected if it does not disclose a cause of action;

*Sections* 9-10.

(*b*) at, or at any time before, the settlement of issues, be returned for amendment within a time to be fixed by the Court, and upon such terms as to the payment of costs occasioned by such amendment as the Court thinks fit, if it—

(i) is not signed and verified as hereinbefore required,

(ii) does not state correctly and without prolixity the several particulars hereinbefore required, or contains particulars other than those so required,

(iii) is wrongly framed by reason of non-joinder or misjoinder of parties, or joins causes of action which ought not to be joined in the same suit, or

(iv) is not framed in accordance with the provisions of section 42;

(*c*) at any time before judgment be amended by the Court upon such terms as to the payment of costs as the Court thinks fit:

"Provided that a plaint shall not be amended either by the party to whom it is returned for amendment, or by the Court, so as to convert a suit of one character into a suit of another and inconsistent character.

"When a plaint is amended under this section, the amendment shall be attested by the signature of the Judge."

Substitution of new section for section 72.

**9.** For section 72 the following shall be substituted, namely:—

"Delivery or transmission of summons for service."

"72. (1) If the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall ordinarily be delivered or sent to the proper officer to be served by him or one of his subordinates.

"(2) The proper officer may be an officer of another Court than that in which the suit is instituted, and, where he is such an officer, the summons may, subject to any rules which the Chief Court may make in this behalf, be sent to him by post or in such other manner as the Court may direct."

Amendment of section 82.

**10.** In section 82, for the first twenty words the following shall be substituted, namely:—

"When a summons is returned under section 80, the Court shall, if the return under that section has not been verified by the affidavit of the serving-officer, and may, if it has been so verified, examine the serving officer on oath, or cause him to be so examined by another Court, touching his proceedings.

*Sections* 11-12.

Substitution of new section for section 89.

**11.** For section 89 the following shall be substituted, namely :—

"Service when defendant resides out of the territories of Mysore and has no agent to accept service."

"89. If the defendant resides out of the territories of Mysore and has no agent in the territories of Mysore empowered to accept the service, the summons shall be addressed to the defendant at the place where he is residing, and forwarded to him by post if there be postal communication between such place and the place where the Court is situate:

"Service in foreign territory through British Resident or Court."

Provided that if there is a British Resident, or Agent, or a Superintendent appointed by the British Government, or a Court established or continued by the authority of the Governor General in Council, in or for the territory in which the defendant resides, the summons may be sent to such Resident, Agent, Superintendent or Court by post or otherwise, for the purpose of being served upon the defendant; and, if the Resident, Agent or Superintendent or the Judge of the Court returns the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be evidence of the service."

Substitution of new section for sections 141 and 142.

**12.** For sections 141 and 142 the following shall be substituted, namely :—

"Endorsements on documents admitted in evidence."

"141. (1) Subject to the provisions of the next following sub-section, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely :—

(*a*) the number and title of the suit,

(*b*) the name of the person producing the document,

(*c*) the date on which it was produced, and

(*d*) a statement of its having been so admitted,

and the endorsement shall be signed by the Judge.

"(2) If a document so admitted is an entry in a book, account or record and a copy thereof has been substituted for the original under the next following section, the particulars aforesaid shall be endorsed on the copy, and the endorsement thereon shall be signed by the Judge.

"Endorsements on copies of admitted entries in books, accounts and records."

"141A. (1) If a document admitted in evidence in the suit is an entry in a shop-book or other account in current use, the party on whose behalf the account is produced, may furnish a copy of the entry.

*Sections* 13-15.

"(2) If such a document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished—

(i) where the record, book or account is produced on behalf of a party, then by that party, or

ii) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

"(3) When a copy of an entry is furnished under the foregoing provisions of this section, the Court shall, after causing the copy to be examined, compared and attested in manner mentioned in section 62, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

"Endorsements on documents rejected as inadmissible in evidence."

"142. When a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in clauses (*a*), (*b*) and (*c*) of section 141, sub-section (1), and a statement of its having been rejected, and the endorsement shall be signed by the Judge.

"Recording of admitted and return of rejected documents."

142A.. (1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under section 141A, shall form part of the record of the suit.

"(2) Documents not admitted in evidence shall not form part of the record and shall be returned to the parties respectively producing them."

Amendment of section 143.

**13**. In section 143, for the words and figures "section 62, 141 and 142" there shall be substituted the following, namely:—

"Section 62, section 141A, sub-section (3), or section 142A, sub-section (2).

Amendment of section 159.

**14**. In section 159 the words "or sent" shall be inserted after the word "delivered."

Amendment of section 168.

**15**. In section 168, for the words "shall examine the serving-officer on oath" the following shall be substituted, namely:—

"shall if the certificate of the serving-officer has not been verified by affidavit, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court."

*Sections* 16-18.

Addition of new section after section 185.

**16.** The following shall be inserted after section 185, namely:—

"Power for Government to require evidence to be recorded in English."

"185A. (1) The Government of Mysore may, by notification in the official Gazette, direct, with respect to any Judge specified in the notification, or falling under a description set forth therein, that evidence in cases in which an appeal is allowed shall, instead of being taken down in the manner prescribed in the foregoing sections, be taken down by him with his own hand in the English language.

"(2) Where a Judge is prevented by any sufficient reason from complying with a direction under sub-section (1), he shall record the reason and cause the evidence to be taken down in writing from his dictation in open Court.

"(3) Evidence taken down under sub-section (1) or sub-section (2) shall be taken in the form mentioned in section 182, and be read over and signed, and, as occasion may require, interpreted and corrected, as if it were evidence taken down under that section.

"(4) The Government of Mysore may, by notification in the official Gazette, revoke or vary a direction notified under sub-section (1)."

Substitution of new section for section 191.

**17.** For section 191 the following shall be substituted, namely:—

"Power to deal with evidence taken down by another Judge."

"191. (1) Where the Judge taking down any evidence, or causing any memorandum to be made, under this chapter, is prevented by death, transfer or other cause from concluding the trial of the suit, any successor to such Judge may deal with such evidence or memorandum as if he himself had taken it down or caused it to be made, and proceed with the suit from the stage at which his predecessor left it.

"(2) The provisions of sub-section (1) shall apply, so far as they can be made applicable, to a suit transferred under section 25:

"Provided that a Court transferring a suit under that section may, if it thinks fit, direct that the Court to which the suit is transferred shall recall all or any of the witnesses who have been examined and take their evidence afresh."

Addition to section 193.

**18.** To section 193 the following shall be added, namely:—

"A Court continuing a suit under section 191 may recall and re-examine a witness who has departed in accordance with section 173."

*Sections* 19-24.

Amendment of section 209.

**19.** (1) In section 209, for the first thirteen words the words "When a decree is for the payment of money" shall be substituted.

(2) To the same section the following shall be added, namely:—

"Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie."

Repeal of part of section 213.

**20.** In section 213 the words and figures from and including the word "applications" to the end of the section shall be repealed.

Amendment of section 216.

**21.** (1) In section 216, for the first twenty-four words the following shall be substituted, namely:—

"If the defendant has been allowed a set-off against the claim of the plaintiff,"

(2) To the same section the following shall be added, namely:—

"The provisions of this section shall apply whether the set-off is admissible under section 111 or otherwise."

Repeal of part of section 230.

**22.** The last paragraph of section 230 is hereby repealed.

Amendment of section 244.

**23.** (1) In section 244, for clause (*c*) the following shall be substituted, namely:—

"(*c*) Any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree or to the stay of execution thereof."

(2) To the same section the following shall be added, namely:—

"If a question arises as to who is the representative of a party for the purposes of this section, the Court may either stay execution of the decree until the question has been determined by a separate suit or itself determine the question by an order under this section."

Addition of new sections after section 245.

**24.** After section 245, the following sections shall be inserted, namely:—

"Prohibition of arrest or imprisonment of women in execution of decrees for money."

"245A. Notwithstanding anything in the last foregoing section or in any other section of the Code, the Court shall not order the arrest or imprisonment of a woman in execution of a decree for money.

"Discretionary power to permit other judgment-debtor to show cause against imprisonment."

"245B. (*i*) Notwithstanding anything in section 245 or in any other section of this Code, when an application is for the execution of a decree for money by the arrest and imprisonment of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to jail in execution of the decree.

"(*ii*) If appearance is not made in obedience to the notice, the Court shall, if the decree-holder so requires, issue a warrant for the arrest of the judgment-debtor."

Amendment of section 250.

**25.** In section 250, between the word "shall" and the word "issue," the following shall be inserted, namely :—

"subject to the provisions of sections 245A and 245B."

Amendment of section 258.

**26.** For the last paragraph of section 258 the following shall be substituted, namely :—

"Unless such a payment or adjustment has been certified as aforesaid, it shall not be recognized as a payment or adjustment of the decree by any Court executing the decree."

Amendment of section 266.

**27.** (1) In the first proviso to section 266, clause (*a*), the words "and bedding" shall be inserted after the word "apparel."

(2) In the same proviso, clause (*b*), after the word "cattle" the words "and seed grain" shall be inserted.

(3) In the same proviso, for clause (*h*), the following shall be substituted, namely :—

"(*h*) The salary of a public officer or of any servant of a Railway Company or local authority to the extent of—

(i) The whole of the salary where the salary does not exceed twenty rupees monthly ;

(ii) Twenty rupees monthly where the salary exceeds twenty rupees and does not exceed forty rupees monthly ; and

(iii) One moiety of the salary in any other case."

(4) To the same proviso, after clause (*l*), the following shall be added, namely :—

"(*m*) Any allowance declared by any law passed by the Government of Mysore to be exempt from liability to attachment or sale in execution of a decree ;

"(*n*) Where the judgment-debtor is a person liable for the payment of land revenue, any moveable property which under any

law applicable to him is exempt from sale for the recovery of an arrear of such revenue.

"(*o*) The arms, horse, clothes, equipments, regimental accoutrements and necessaries of the members of the Mysore Silahdar and Barr Forces, and the pay and allowances or any part thereof of such members below the rank of a Jamadar in a Silahdar Force, and below the rank of a Subadar in a Barr Force."

(5) In the Explanation to the same proviso, for the word and letter "and (*j*)" the letters and words "(*j*) and (*m*) and the pay and allowances specified in clause (*o*)," shall be substituted.

Amendment of section 289.

**28.** In section 289 the words "on the spot where the property is attached" are hereby repealed.

Addition to section 320.

**29.** To section 320 the following shall be added, namely:—

"Rules under this section may confer upon the Deputy Commissioner or any gazetted subordinate of the Deputy Commissioner all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Deputy Commissioner, including the powers of the Court under sections 294 and 312, and may provide for orders passed by the Deputy Commissioner or any gazetted subordinate of the Deputy Commissioner, or orders passed on appeal with respect to such orders, being subject to appeal to and revision by superior Revenue authorities as nearly as may be as the orders passed by the Court, or orders passed on appeal with respect to such orders, would be subject to appeal to and revision by appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Deputy Commissioner.

"A power conferred by the rules upon the Deputy Commissioner or any gazetted subordinate of the Deputy Commissioner, or upon any appellate or revisional authority, shall not be exercisable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

"In executing a decree transferred to the Deputy Commissioner under this section, the Deputy Commissioner and his subordinates shall be deemed to be acting judicially."

Addition of a new proviso to section 336.

**30.** After the first paragraph of section 336, the following shall be inserted, namely:—

"Provided that no person, who belongs to the Mysore Silahdar or Barr Force, shall, so long as he belongs to such Force, be liable

*Section* 31.

to be arrested for debt under any process issued by, or by the authority of, any Court of Law; and"

Addition of new section after section 337.

**31.** After section 337, the following shall be inserted, namely:—

"Proceedings on appearance of judgment-debtor in obedience to notice under section 245 B or after arrest in execution of decree for money."

"337A. (i) When a judgment-debtor appears before the Court in obedience to a notice issued under section 245B, or is brought before the Court after being arrested in execution of a decree for money, and it appears to the Court that the judgment-debtor is unable from poverty or other sufficient cause to pay the amount of the decree or, if that amount is payable by instalments, the amount of any instalment thereof, the Court may, upon such terms, if any, as it thinks fit, make an order disallowing the application for his arrest and imprisonment, or directing his release, as the case may be.

"(ii) Before making an order under sub-section (i), the Court may take into consideration any allegation of the decree-holder touching any of the following matters, namely:—

(*a*) the decree being for a sum for which the judgment-debtor was bound as a trustee or as acting in any other fiduciary capacity to account;

(*b*) the transfer, concealment or removal by the judgment-debtor of any part of his property after the date of the institution of the suit in which the decree was made, or the commission by him after that date of any other act of bad faith in relation to his property, with the object or effect of obstructing or delaying the decree-holder in the execution of the decree;

(*c*) any undue or unreasonable preference given by the judgment-debtor to any of his other creditors;

(*d*) his refusal or neglect to pay the amount of the decree or some part thereof when he has, or since the date of the decree has had, the means of paying it;

(*e*) the likelihood of his absconding or leaving the jurisdiction of the Court with the object or effect mentioned in clause (*b*) of this sub-section.

(iii) While any of the matters mentioned in sub-section (ii) are being considered, the Court may in its discretion order the judgment-debtor to be imprisoned, or leave him in the custody of an officer of the Court or release him on his furnishing sufficient security for his appearance on the requisition of the Court.

(iv) A judgment-debtor released under this section may be re-arrested.

*Sections* 32-33.

(v) If the Court does not make such an order as is mentioned in sub-section (i), it shall cause the judgment-debtor to be arrested if he has not already been arrested and, subject to the other provisions of this Code, commit him to jail."

Amendment of Chapter XX.

**32.** (1) In section 349, for the words "is under arrest" the words "is in custody under the foregoing provisions of this Code" shall be substituted.

(2) In section 354, between the word "and" and the words "shall operate" the words "every order under that section appointing a receiver" shall be inserted.

(3) For the second paragraph of section 360 the following shall be substituted, namely:—

"A Court so invested may entertain an application under section 344 by any person who has been arrested or imprisoned, or against whose property an order of attachment has been made, in execution of a decree for money passed by that Court."

Amendment of Chapter XXI.

**33.** (1) For sections 363 and 364 the following shall be substituted, namely:—

"Procedure where one of several plaintiffs dies and right to sue does not survive to surviving plaintiffs alone."

"363. If there are more plaintiffs than one, and any of them dies, and if the right to sue does not survive to the surviving plaintiff or plaintiffs alone, but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may cause the legal representative, if any, of the deceased plaintiff to be made a party, and shall thereupon cause an entry to that effect to be made on the record and proceed with the suit."

(2) For section 365, the following shall be substituted, namely:—

"Procedure in case of death of sole or sole surviving plaintiff."

"365. In case of the death of a sole plaintiff or sole surviving plaintiff, the legal representative of the deceased may, where the right to sue survives, apply to the Court to have his name entered on the record in place of the deceased plaintiff, and the Court shall thereupon enter his name and proceed with the suit."

(3) To section 368, the following shall be added, namely:—

"The legal representative of a deceased defendant may apply to have himself made a defendant in place of the deceased defendant, and the provisions of this section, so far as they are applicable, shall apply to the application and to the proceedings and consequences ensuing thereon."

(4) After section 372 the following shall be added, namely:—

"Power for Court to extend period of limitation prescribed for certain applications."

"372A. The provisions of section 5 of the Indian Limitation Act, 1877, applicable to appeals shall apply to applications under sections 365, 366, 368 and 371.

Addition to section 380.

**34.** To section 380 the following shall be added, namely:—

"On the application of any defendant in a suit for money in which the plaintiff is a woman, the Court may, at any stage of the suit, make a like order if it is satisfied that such plaintiff does not possess any sufficient immovable property within the territories of Mysore independent of the property in suit."

Addition to section 381.

**35.** To section 381 the following shall be added, namely:—

"or show good cause why such time should be extended, in which case the Court may extend it.

"Where a suit is dismissed under this section, the plaintiff may apply for an order to set the dismissal aside, and if it is proved to the satisfaction of the Court that he was prevented by any sufficient cause from furnishing the security within the time allowed, the Court shall set aside the dismissal upon such terms as to security, costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

"The dismissal shall not be set aside unless the plaintiff has served the defendant with notice in writing of his application.

"The provisions of the Indian Limitation Act, 1877, with respect to an application under section 103, and of this Code with respect to an appeal from an order rejecting such an application, shall apply, so far as they can be made applicable, to an application under this section for an order to set aside the dismissal of a suit, and to an appeal from an order rejecting such an application, respectively."

Amendment of section 386.

**36.** In section 386, for the words "or to any pleader of the Chief Court whom the Court issuing the commission thinks fit to appoint" the following shall be substituted, namely:—

"or to any pleader or other person whom the Court issuing the commission, may, subject to any rules of the Chief Court in this behalf, think fit to appoint."

Amendment of section 424.

**37.** In section 424, after the words "intending plaintiff" the words "and the relief which he claims" shall be inserted.

*Sections* 38-43.

**38.** In section 503, clause (*d*), the words "as the Court thinks fit" shall be inserted after the words "by way of remuneration." Amendment of section 503.

**39.** In section 504, for the words "the Court may appoint the Deputy Commissioner" the words "the Court may, with the consent of the Deputy Commissioner, appoint him" shall be substituted. Amendment of section 504.

**40.** In section 539, for the words "having a direct interest" the words "having an interest" shall be substituted. Amendment of section 539.

**41.** To section 540 the following shall be added, namely:— Addition to section 540.

"An appeal may lie under this section from an original decree passed *ex parte*."

**42.** To section 549 the following shall be added, namely:— Addition to section 549.

"If such security be furnished, any costs for which a surety may have rendered himself liable may be recovered from him in execution of the decree of the appellate Court in the same manner as if he were the appellant."

**43.** (1) For section 551 the following shall be substituted, namely:— Substitution of new section for section 551.

"551. (i) The appellate Court, if it thinks fit, may, after fixing a day for hearing the appellant or his pleader and hearing him accordingly if he appears on that day, dismiss the appeal without sending notice of the appeal to the Court against whose decree the appeal is made and without serving notice on the respondent or his pleader. "Power to dismiss appeal without sending notice to Lower Court."

"(ii) If on the day fixed under sub-section (i) or any other day to which the hearing may be adjourned the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

"(iii) The dismissal of an appeal under this section shall be notified to the Court against whose decree the appeal is made."

(2) For the first paragraph of section 552 the following shall be substituted, namely:—

"Unless the appellate Court dismisses the appeal under the last foregoing section, it shall fix a day for hearing the appeal."

(3) In section 558 the words and figures "section 551, sub-section (ii)," shall be inserted befor the word and figures "section 556."

Amendment of, and addition to, section 561.

**44.** (1) For the proviso to the first paragraph of section 561 the following shall be substituted, namely :—

"Provided he has filed the objection in the appellate Court within one month from the date of the service on him or his pleader under section 553 of notice of the day fixed for hearing the appeal, or within such further time as the appellate Court may see fit to allow."

(2) To the same section the following shall be added, namely:—

"Unless the respondent files with the objection a written ackowledgment from the appellant or his pleader of having received a copy thereof, the appellate Court shall cause such a copy to be served, as soon as may be after the filing of the objection, on the appellant or his pleader, at the expense of the respondent.

The provisions of Chapter XLIV shall, so far as they can be made applicable, apply to an objection under this section."

Amendment of section 562.

**45.** (1) In section 562 the words "so as to exclude any evidence of fact which appears to the appellate Court essential to the determination of the rights of the parties" are hereby repealed.

(2) In the same section, for the word "investigate" the word "determine" shall be substituted.

Repeal of section 563.

**46.** Section 563 is hereby repealed.

Amendment of section 565.

**47.** In section 565, for the word "shall" the word "may" shall be substituted.

Amendment of section 566.

**48.** (1) In section 566, the words "and the evidence upon the record is not sufficient to enable the appellate Court to determine such issue or question" are hereby repealed.

(2) In the same section between the words "the appellate Court may" and the words "frame issues" the words "if necessary" shall be inserted.

Addition to section 575.

**49.** To section 575, add the following:—

"When any of these provisions conflict with those of the Mysore Chief Court Regulation, I of 1884, as amended by Regulation II of 1890, the last mentioned provisions shall prevail."

Amendment of section 582.

**50.** (1) In section 582, for the words "the words 'plaintiff,' 'defendant' and 'suit' shall be held to include an appellant, a respondent and an appeal, respectively," the following shall be substituted, namely :—

"the word 'plaintiff' shall be held to include a plaintiff-appellant or defendant-appellant, the word 'defendant' a plaintiff-respondent or defendant-respondent, and the word 'suit' an appeal."

*Sections* 51-57.

(2) In the same section, the words and figures "including those of section 372A," shall be inserted after the words "The provisions hereinbefore contained."

**51.** To section 584 the following shall be added, namely:— Addition to section 584.

"An appeal may lie under this section from an appellate decree passed *ex parte*."

**52.** (1) In section 588, clause (9), for the word "or" the word "for" shall be substituted. Amendment of section 588.

(2) In the same section, clause (16), for the words "the first paragraph of" the words "and orders under" shall be substituted.

**53.** (1) The first paragraph of section 589, and the word "other" in the second paragraph of that section, are hereby repealed. Repeal of part of section 589.

(2) To the same section the following shall be added, namely:—

"Provided that an appeal from an order specified in section 588, clause (17), shall lie—

(*a*) to the District Court where the order was passed by a Court subordinate to that Court, and

(*b*) to the Chief Court in any other case."

**54.** To section 626 the following proviso shall be added, namely:— Addition to section 626.

"and"

"(*c*) an application made under section 624 to the Judge who delivered the judgment may, if that Judge has ordered notice to issue under proviso (*a*) to this section, be disposed of by his successor."

**55.** In section 640, after the words "from arrest in execution of civil process" the words "in any case in which the arrest of women is not prohibited by this Code" shall be added. Amendment of section 640.

**56.** In section 642, for the words and figures "except as provided in sections 256 and 643" the following shall be substituted, namely:— Amendment of section 642.

"except as provided in section 337 A, sub-section (v), and sections 256 and 643."

**57.** After section 645 the following shall be inserted namely:— Addition of new sections after section 645.

"645A. (1) If at any time before judgment a Court in which a suit has been instituted doubts whether the suit is cognizable by a Court of Small Causes or is not so cognizable, it may submit the record to the Chief Court with a statement of its reasons for the doubt as to the nature of the suit. "Power to refer to Chief Court questions as to jurisdiction in Small Causes."

"(2) On receiving the record and statement the Chief Court may order the Court either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

"Power to District Court to submit for revision proceedings had under mistake as to jurisdiction in Small Causes."

"645B. (1) If it appears to a District Court that a Court subordinate thereto, has, by reason of erroneously holding a suit to be cognizable by a Court of Small Causes or not to be so cognizable, failed to exercise a jurisdiction vested in it by law, or exercised a jurisdiction not so vested, the District Court may, and, if required by a party, shall, submit the record to the Chief Court with a statement of its reasons for considering the opinion of the subordinate Court with respect to the nature of the suit to be erroneous.

"(2) On receiving the record and statement the Chief Court may pass such order in the case as it thinks fit.

"(3) With respect to any proceeding subsequent to decree in any case submitted to the Chief Court under this section, the Chief Court may make such order as in the circumstances appears to it to be just and proper.

"(4) A Court subordinate to a District Court shall comply with any requisition which the District Court may make for any record or information for the purposes of this section."

Amendment of, and addition to, section 648.

**58** For the third paragraph of section 648, the following shall be substituted: —

"and the Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or (where the case is one under Chapter XXXIV) for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him"

Addition of new section after section 654.

"Release on ground of illness of judgment-debtor."

**59**. After section 652, the following shall be added, namely:—

"653. (1) At any time after a warrant of arrest has been issued under this Code, the Court may cancel it on the ground of the serious illness of the person against whom the warrant was issued.

"(2) When a judgment-debtor has been arrested under this Code, the Court may release him if in its opinion he is not in a fit state of health to undergo imprisonment.

*Sections* 60-61.

"(3) When a judgment-debtor has been committed to jail, he may be released therefrom—

(*a*) by the Government of Mysore, on the ground of his suffering from any infectious or contagious disease, or

(*b*) by the committing Court or any court to which that Court is subordinate, on the ground of his suffering from any serious illness.

"(4) A judgment-debtor released under this section may be re-arrested, but the period of his imprisonment shall not in the aggregate exceed that prescribed in section 342 or section 481, as the case may be."

Revision of second schedule.

**60.** For the second schedule there shall be substituted the schedule to this Regulation.

Amendment of Form No. 137, schedule IV.

**61.** In Form No. 137 of the fourth schedule the words "bound by the decree" shall be inserted after the words "remove any person."

---

SCHEDULE TO THIS REGULATION.

THE SECOND SCHEDULE TO THE CODE OF CIVIL PROCEDURE.

(*See Section 5.*)

Chapters and Sections of this Code extending to Courts of Small Causes.

Preliminary: Sections 1, 2, 3 and 5.

Chapter I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11 and the last paragraph of section 14.

Chapter II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 and 23.

Chapter III.—Of Parties and their Appearances, Applications and Acts.

Chapter IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

Chapter V.—Of the Institution of Suits.

Chapter VI.—Of the Issue and Service of Summons, except section 77.

Chapter VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

Chapter VIII.—Of Written Statements and Set-off.

Chapter IX.—Of the Examination of the Parties by the Court, except section 119.

Chapter X.—Of Discovery and the Admission, &c., of Documents.

*Schedule.*

Chapter XII.—Section 155, first paragraph, Judgment where either Party fails to produce his evidence.

Chapter XIII.—Of Adjournments.

Chapter XIV.—Of the Summoning and Attendance of Witness.

Chapter XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).

Chapter XVI.—Of Affidavits.

Chapter XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.

Chapter XVIII.—Of Costs, sections 220, 221 and 222.

Chapter XIX.—Of the Execution of Decrees, sections 223 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 283 (both inclusive), 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290 (so far as relates to moveable property), 291, 292, 293 (so far as relates to re-sales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).

Chapter XX.—Section 360, Power to invest certain Courts with Insolvency Jurisdiction.

Chapter XXI.—Of the Death, Marriage, and Insolvency of Parties.

Chapter XXII.—Of the Withdrawal and Adjustment of Suits.

Chapter XXIII.—Of Payment into Court.

Chapter XXIV.—Of requiring Security for Costs.

Chapter XXV.—Of Commissions, except section 396.

Chapter XXVI.—Suits by Paupers.

Chapter XXVII.—Suits by Government or by or against Public Officers.

Chapter XXIX.—Suits by and against Corporations and Companies.

Chapter XXX.—Suits by and against Trustees, Executors and Administrators.

Chapter XXXI.—Suits by and against Minors and Persons of unsound mind.

Chapter XXXXII.—Suits by and against Military Men.

Chapter XXXIII.—Interpleader.

Chapter XXXIV.—Of Arrest and Attachment before Judgment, except as regards Immoveable Property.

Chapter XXXVI.—Appointment of Receivers.

Chapter XXXVII.—Reference to Arbitration.

Chapter XXXVIII.—Of Proceedings on Agreement of Parties.

Chapter XLVI.—Reference to and Revision by Chief Court.

Chapter XLVII.—Of Review of Judgment, sections 623, 626 and 630.

Chapter XLIX.—Miscellaneous.